

REMARKS:

The present amendment cancels claim 18.

Reconsideration of the application in view of the present amendment is respectfully requested.

Based on the foregoing amendments and the following remarks the application is deemed to be in condition for allowance and action to that end is respectfully requested.

Claims 13-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Vittone et al., U.S. Patent No. 5,928,117 (Vittone). It is respectfully submitted that claim 13 and claims 14-17, dependent on claim 13, are patentable over Vittone.

Specifically, claim 13 recites that the operating apparatus is displaceable between two consecutive transmission members to a desired position and comprises a handle connected with at least one cable and fitted in a freely slidable manner thereon for accommodating user's work-out requirements.

As explained in the specification, fitting of the handle on the cable in a freely slidable manner permits the user to take hold of the handle in the lowered rest position and move it spontaneously to a height which feels physiologically most comfortable, i.e., the position of the handle would define "a cable working

area” the user is comfortable with. And this without any pre-stress on the limbs of the user due to the cable pretension. The absence of any ties, which condition the choice of the user on where to place the handle along the cable avoids traction pre-stress on the cable before the beginning of the workout and allows the user to vary the position of the handle on the cable at any moment during the progress of the exercise.

Vittone discloses a completely different type of the machine. Whereas the present invention is directed to a limb-exercising machine, Vittone is directed to a neck-exercising machine, and for that reason alone is not believed to be pertinent to the present invention. Vittone discloses a completely different structure.

In Vittone, the exercising apparatus (the neck-receiving ring (120)) is not displaceable between two consecutive transmission members, as recited in claim 13. In Vittone, the exercising apparatus (120) is fixedly connected with four (4) transmission members (130, 132, 134, 136) and is displaceable together with these transmission members (see Fig. 8). Further, the ring (120) is not a handle slidable along a cable that connects the exercising apparatus with a load group (144). The ring moves together with the cable (112).

A rejection based on U.S.C. § 102 as in the present case, requires that the cited reference disclose each and every element covered by the Claim. Electro

Medical Systems S.A. v. Cooper Life Sciences, 32 U.S.P.Q. 2d 1017, 1019 (Fed. Cir. 1994); Lewmar Marine Inc. v. Barient Inc., 3 U.S.P.Q. 2d 1766, 1767-68 (Fed. Cir. 1987); Verdegaal Bros., Inc. v. Union Oil Co., 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit has mandated that 35 U.S.C. § 102 requires no less than “complete anticipation . . . [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros., 2 U.S.P.Q. 2d at 1053.

Vittone does not disclose an exercising apparatus as claimed. Since Vittone fails to disclose each and every feature of independent Claim 13, Vittone, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Vittone does not anticipate or make obvious the present invention as defined in Claim 13, and the present invention is patentable over Vittone and Claim 13 is allowable.

Claim 14-17 depend on Claim 13 and are allowable as being dependent on an allowable subject matter.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,



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